

Appl. No. 10/612,197
Docket No. AA537C
Amdt. dated May 18, 2007
Reply to Office Action mailed on April 10, 2006
Customer No. 27752

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REMARKS

Claim Status

Claims 1-5 and 10-12 are pending in the present application. No additional claims fee is believed to be due.

Claim 1 has been amended to correct a typographical error. Support for this amendment can be found in the specification, at, for example, page 6, lines 28-30.

Claims 10 and 11 have been amended to correct the dependency. Applicants note that Claim 8 was cancelled in the Amendment dated September 13, 2005, when the limitations of Claim 8 were incorporated into Claim 1. As such, Claims 10 and 11, which previously depended from Claim 8, should in fact depend from Claim 1.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 USC §103(a) Over Lassen (U.S. Pat. No. 4,631,062)

Claims 1-5 and 10-12 have been rejected under 35 USC §103(a) as being obvious in view of Lassen, U.S. Patent No. 4,631,062. This rejection is respectfully traversed.

Applicants respectfully submit that the Office Action has failed to set forth a *prima facie* case of obviousness in accordance with M.P.E.P. 2143. Specifically, the Office Action has failed to show where each and every element of Claims 1-5 and 10-12 can be found in Lassen, such as, e.g., the claimed dimensions.

The Office Action has failed to present any evidence showing that the claimed invention would perform the same as Lassen's device. Applicants' device as recited in Claim 1 has dimensions that provide for a majority of the device to fit within the wearer's interlabial space. Applicants state on page 6, line 9, for example, that "[t]he size of the interlabial device 20 is important to its comfort and effectiveness." Furthermore, "[t]he interlabial device 20 must be of a suitable overall shape and size that allows at least the majority of the device 20 to fit comfortably within the wearer's interlabial space." Specification, at, e.g., page 5, lines 30-31.

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Lassen, on the other hand, teaches away from a device having dimensions that allow at least a majority of the device to fit within the wearer's interlabial space. Lassen states at column 5, lines 18-20, that "placing a prominence or other projection entirely within the vestibule promotes... irritation." Lassen also repeatedly teaches a pad that resides outside the wearer's interlabial space. For example, Lassen teaches a pad that extends "over the vulva" (Abstract) (emphasis added). At column 6, lines 29-35, Lassen states: "An anterior region of the pad merges with the posterior region for a generally external disposition about the vulvar region of the wearer over the labia majora..." (emphasis added). Lassen also discloses that "the forwardmost portion or anterior region of the pad folds beyond the vestibule about the vulva of the wearer" (Column 6, lines 57-59) (emphasis added); "the anterior region 56 is configured for external disposition about the forward vulvar region towards the mons pubis, over the labia majora" (Column 10, lines 56-61) (emphasis added); the pad "is at least long enough ... to extend (in use) ... over the anterior of the vulva" (Column 11, lines 30-33) (emphasis added); the sanitary napkin has "a generally external disposition about the vulvar region over said labia majora and spaced from said clitoris" (Claim 1) (emphasis added). Thus, the pad of Lassen is structurally different from Applicants' claimed device.

The Office Action cites Col. 6, lines 11-16, of Lassen as teaching that an advantage of Lassen is that the pad does not require external attachment. Applicants respectfully submit that the mere fact that the pad does not require external attachment does not teach or suggest Applicants' claimed device, which has dimensions that enable at least a majority of the device to fit within the wearer's interlabial space. This feature of the claimed device is in contradistinction to the device of Lassen, which is disposed outside the wearer's interlabial space and is held in place by the wearer's undergarment. Although Lassen states that the pad does not require *attachment* to the wearer's anatomy or undergarments, (Col. 6, 11-16), Lassen does require an undergarment to provide a "biasing" force to hold the pad in the desired position. For example, Lassen, at Col. 6, lines 66-68, states: "the slight external pressure of the wearer's undergarment is generally required to provide a type of biasing of the pad into its proper position." See also Col. 17, lines 12-16.

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Accordingly, because the Office Action fails to make a *prima facie* case of obviousness in accordance with M.P.E.P. 2143, Applicant respectfully requests that the rejection be withdrawn and that Claims 1-5 and 10-12 be allowed.

Conclusion

In view of the foregoing, entry of the amendment(s) presented herein, reconsideration of this application, and allowance of the pending claim(s) are respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By

Signature

Amanda T. Barry

Typed or Printed Name

Registration No. 51,435

(513) 634-4160

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Customer No. 27752